

REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-9 are pending in the application. In the Office Action, the Examiner rejected Claims 1-3 and 7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,778,304 to *Grube et al.* (hereinafter *Grube*) in view of U.S. Patent No. 6,985,723 to *Kil*, which is commonly assigned to the assignee of the present application. The Examiner rejected Claims 4-6 under 35 U.S.C. §103(a) as being unpatentable over *Grube* and *Kil*, and further in view of U.S. Publication No. 2002/0106202 to *Hunter*. The Examiner rejected Claims 8 and 9 under 35 U.S.C. §103(a) as being unpatentable over *Grube* in view of U.S. Publication No. 2003/0008662 to *Stern et al.* (hereinafter *Stern*) and *Kil*.

Regarding the rejection of Claims 1-3 and 7 under §103(a), it is respectfully asserted that under 35 U.S.C. §103(c), *Kil* is an improper reference since the subject matter of *Kil* and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. As a result, it is respectfully submitted that the §103(a) rejection of Claims 1-3 and 7 citing *Grube* in view of *Kil* is improper, and should be withdrawn. Accordingly, withdrawal of the same is respectfully requested.

Regarding the rejection of Claims 4-6 under §103(a), as well as the rejection of Claims 8-9 under §103(a), since both of these rejections also cite *Kil* as a reference (Claims 4-6 cite *Grube* in view of *Kil* and further in view of *Hunter*, and Claims 8-9 cite *Grube* in view of *Stern* and *Kil*), it is respectfully submitted that these rejections should also be withdrawn for at least the same reasons under §103(c) as stated above with respect to the rejection of Claims 1-3 and 7. Accordingly, withdrawal of the respective §103(a) rejections of Claims 4-6 as well as Claims 8-9 is respectfully requested.

Independent Claims 1, 7, 8 and 9 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-6, these are likewise believed to be

allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-6 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-9, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/RCC/dr